

## **BOARD OF ENVIRONMENTAL REVIEW AGENDA ITEM**

### **EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

#### **Agenda # III.A.1.**

**Agenda Item Summary:** The Board has proposed amending the air quality incorporation by reference rules to adopt the current editions of federal regulations and state rules. The Board has also proposed amendments to several other sections of the air quality rules that would update citations, revise incorporation by reference statements in various rules to make the wording consistent, change numbering to conform to the requirements of the Secretary of State's office, eliminate unnecessary statutory language in definitions, and make minor clerical changes.

**List of Affected Rules:** ARM 17.8.101, 102, 103, 106, 110, 302, 401, 402, 801, 802, 818, 819, 821, 901, 902, 905, 1002, 1201, 1202, 1204, 1206, 1212, 1213, 1214, 1220, 1224, 1226, and 1232.

**Affected Parties Summary:** The proposed rule amendments could affect all parties regulated by the Department under the air quality rules.

**Scope of Proposed Proceeding:** The Board is considering final action on adoption of amendments to the above-referenced rules as proposed in the Montana Administrative Register.

**Background:** Annually, the Board updates the rules that incorporate by reference state administrative rules and federal regulations. This is accomplished by amending the dates in ARM 17.8.102. An attachment addresses the major changes in federal rules that will be adopted as a result of this action. The failure to adopt the most recent edition of the Code of Federal Regulations may result in the loss of primacy for the air program.

Other proposed amendments, that make no substantive changes in the rules, include updating citations, revising incorporation by reference statements in various rules so wording will be consistent throughout, changing numbering to conform to the requirements of the Secretary of State's office, eliminating unnecessary statutory language in definitions, and making minor clerical changes.

**Hearing Information:** Thomas Bowe conducted a public hearing on January 29, 2003, on the proposed amendments and their submission to EPA as a proposed revision to the SIP. Public comments received and the Department's proposed responses are included, respectively, with the Presiding Officer Report and the draft Notice of Amendment attached to this executive summary.

**Board Options:** The Board may:

1. Adopt the proposed amendments as set forth in the attached Notice of Public Hearing on Proposed Amendment;
2. Adopt the proposed amendments with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to adopt the amendments.

**Enclosures:**

The following information is attached to this summary:

- 1) Notice of Public Hearing on Proposed Amendment;
- 2) Hearing Examiner's Report; and
- 3) Draft Notice of Amendment

**DEQ Recommendation:** The Department recommends that the Board adopt the proposed amendments, with the revisions shown in the attached draft Notice of Amendment.

## **Board of Environmental Review Attachment to Executive Summary**

This attachment lists the major changes to the CFR sections that are incorporated by reference in the air program rules, and were published in the Federal Register between July 1, 2001 and June 30, 2002. These changes are included in the July 1, 2002, CFR edition that is being incorporated by reference in this rulemaking.

**CFR Sections Affected:** 40 CFR 63.863-865

**General Explanation:** EPA promulgated amendments to the NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills. These amendments are technical corrections that will not change the standards established by the rule or the level of health protection it provides.

**CFR Sections Affected:** 40 CFR 63.1340-1359 (Subpart LLL)

**General Explanation:** EPA promulgated amendments to the NESHAP for the portland cement manufacturing industry. The amendments make improvements to the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring.

**CFR Sections Affected:** 40 CFR 63.1560-1579 (Subpart UUU)

**General Explanation:** EPA promulgated NESHAP for certain types of affected sources at petroleum refineries. These sources include catalytic cracking units (CCU), catalytic reforming units, and sulfur recovery units, as well as associated by-pass lines. The EPA has identified petroleum refineries as major sources of hazardous air pollutants (HAP). Hazardous air pollutants that would be reduced by this final rule include organics (acetaldehyde, benzene, formaldehyde, hexane, phenol, toluene, and xylene); reduced sulfur compounds (carbonyl sulfide, carbon disulfide); inorganics (hydrogen chloride, chlorine); and particulate metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, and nickel). These NESHAP will require petroleum refineries that are major sources to meet standards reflecting the application of the maximum achievable control technology (MACT).

**CFR Sections Affected:** 40 CFR 72.2, 75.1-74, and App. A

**General Explanation:** EPA promulgated amendments to the requirements for sources affected by the Acid Rain Program and by the NOX Budget Trading Program. The amendments streamline the rule by eliminating outdated sections and making technical corrections and clarifications. They provide additional flexibility and options for sources in meeting the continuous emission monitoring system (CEMS) requirements under programs to reduce sulfur dioxide and nitrogen oxides emissions. These revisions may apply to sources that monitor and report emissions only during the ozone season, as well as to sources that monitor and report emissions for the entire year. The revisions benefit the environment by ensuring that sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NOX), and carbon dioxide (CO<sub>2</sub>) emissions are accurately monitored and reported, even as they benefit the affected industrial sources by creating opportunities to adopt cost-saving procedures.